

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

Crl.MC.No. 3254 of 2007()

FIR NO.8/2000 OF PADAGIRI POLICE STATION
CC.558/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR
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PETITIONER: PETITIONER

MAHENDRAKUMAR,MANAGING PARTNER
NATIONAL SPICES PLANTATION
PULAYAMPARA, NELLIYAMPATHI,
CHITTUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS: RESPONDENTS

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1. THE ENFORCEMENT OFFICER
EMPLOYEES PROVIDENT FUND OFFICE
PALAKKAD.
 2. THE SUB INSPECTOR OF POLICE
PADAGIRI POLICE STATION
PALAKKAD DISTRICT.
 3. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM.

R1 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC, P.F.
R2 & 3 BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 3254 of 2007

Dated this the 1st day of December, 2007

ORDER

The short prayer of the petitioner, who faces prosecution for offences punishable under Section 406 I.P.C., is that the 1st respondent may be directed to withdraw the prosecution launched against the petitioner on the ground of non-payment of dues. According to the petitioner, the entire amount has been paid and the liability has been discharged and in these circumstances it is unnecessary to continue the prosecution.

2. The learned counsel for the first respondent, on instructions, submits that the first respondent is not willing to withdraw the prosecution. Subsequent discharge of the liability does not obliterate the alleged culpability. According to the first respondent even now certain amounts remain to be paid also.

3. I shall assume for the sake of arguments that the entire liability has been discharged. But even then this court cannot evidently compel the first respondent to withdraw the

prosecution initiated. As rightly submitted by the learned counsel for the first respondent, discharge of liability belatedly cannot be reckoned as sufficient reason to quash the proceedings against the petitioner. Culpable liability is not erased by such subsequent payment.

4. This Crl.M.C. is accordingly dismissed. I may hasten to observe that the petitioner shall be at liberty to raise all his contentions before the learned Magistrate in the course of trial, including the contention that subsequent discharge of the entire liability must persuade the court to take a lenient view on the question of sentence.

(R. BASANT)
Judge

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